IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

Crl.MC.No. 125 of 2007()

AGAINST THE ORDER DATED / / IN CRMP 5956/06 IN CRA.1009/2006 of I ADDL.SESSIONS COURT, ERNAKULAM ST.147/2004 of

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PETITIONER:

VARKEY, AGED 65 YEARS,
S/O. KURUVILA,
PADINGARAKADY HOUSE,
VENDUVAZHY P.O.,
MATHERAPPALLY,
KOTHAMANGALAM,
ERNAKULAM DISTRICT.

BY ADV. SRI.IYPE JOSEPH

RESPONDENTS:

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1. P.M. POULOSE,
PADINJAREKUDY HOUSE,
VENDUVAZHY P.O.,
MATHIRANPALLY,
REP. BY POWER OF ATTORNEY HOLDER,
SUNNY JOSEPH, S/O. JOSEPH,
PARANAVIL HOUSE,
CHELAD P.O.

2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. C.K. SURESH.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 125 OF 2007

Dated this the 16th day of January, 2007

ORDER

The petitioner has been found guilty, convicted and sentenced in a prosecution under Sec.138 of the N.I. Act. He preferred an appeal. The execution of the sentence was suspended subject to conditions, inter alia, it is insisted that the the petitioner must deposit an amount of Rs.1 lakh within one month from 18/12/06.

2. The petitioner has come to this Court complaining against the harsh condition imposed. He submits that a civil case has already been filed and the property of the petitioner has been attached. The condition may be set aside; at least, some further time may be granted to comply with the condition. It is submitted that if the condition were not set aside or time granted, it would virtually compel the petitioner to undergo the sentence even before his appeal is considered by the appellate court on merits.

3. Having heard the learned counsel for the petitioner, I am satisfied that this Crl.M.C. can be allowed in part subject

to directions.

4. This Crl.M.C. is, accordingly, allowed. The petitioner is granted time till 18/3/07 to pay the amount of Rs.1 lakh as directed by the appellate court. If the petitioner is unable to raise the amount, he shall within 10 days from this date file an application before the appellate court for early out of turn disposal of the appeal and in that event the learned Magistrate shall dispose of the appeal within a period of two months from this date.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge